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RE SPECIAL PROCESSING SUBMISSION - PETITION

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TO:

U.S. Patent and Trademark Office
Facsimile: 703-872-9306

Number of pages including this page: 13

In re U.S. National Phase of International Application
of Philippe MAUBANT, et al.International Filing Date: 26 March 2003
International Application No.: PCT/FR03/00955Filed under 35 U.S.C. 371: 21 September 2004
U.S. Serial No. 10/507,369For: STRAIN-MEASURING DEVICE

Enclosure:

PETITION TO THE DIRECTOR UNDER 37 CFR 1.181,
TO REQUEST WITHDRAWAL OF HOLDING OF DEFECTIVE RESPONSEJackson Patent Law Office
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Alexandria, VA 22314

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SPECIAL PROCESSING SUBMISSION

PATENT

ATTORNEY DOCKET No. 161.002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. National Phase of International Application)
of Philippe MAUBANT, et al)
U.S. Serial No. 10/507,369)
Filed under 35 U.S.C. 371: 21 September 2004)
International Filing Date: 26 March 2003)
International Application No.: PCT/FR03/00955)
For: STRAIN-MEASURING DEVICE)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION TO THE DIRECTOR UNDER 37 CFR 1.181,
TO REQUEST WITHDRAWAL OF HOLDING OF DEFECTIVE RESPONSE**

Applicants received a Notice of Defective Response mailed June 13, 2005 (Exhibit A), stating, "Total additional claim fee(s) for this application is \$805...\$625 for 25 total claims over 20...\$180 for multiple dependent claim surcharge."

Applicants assert, however, that there should be less than 20 claims in the Application, and no multiple dependent claim. As shown in the preliminary amendment filed September 21, 2004 (Exhibit B), accompanying the initial national phase submission, there is a single instruction: "Before calculating the fees for this Application, please amend the Application as follows: IN THE CLAIMS: Please cancel claims 6-24. . ."

U.S. National Phase of PCT Application
PCT/FR03/00955 (10/507,369)
Page 2

In a telephone discussion with an employee in the Office of PCT Operations, Applicants' representative asked why this preliminary amendment was disregarded. The employee stated that this preliminary amendment would not be entered because it is "in French." Applicants note, however, that this preliminary amendment is not in French, although claims remaining in the Application after the cancellation are in French.

The regulations provide no authority for disregarding an amendment in these circumstances. To the contrary, "[a] preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that cancels claims and/or eliminates multiple dependent claims will be effective to reduce the number of claims to be considered in calculating extra claim fees . . ." MPEP 1893.01(c). Furthermore, an English language version of the application is not required in the initial national stage submission. 37 CFR 1.495(c). Holding that claims may not be cancelled here, when remaining claims are in French, deprives Applicants of the benefit of one of these regulations.

Following both of these regulations will not be an undue burden on the Office of PCT Operations. Applications often contain indecipherable material, even after translation into English, and the PTO routinely enters amendments in such applications; the refusal to enter the amendment in the instant application was arbitrary.

Depriving applicants of these regulations places an undue burden on the applicant that cannot afford multiple dependent claims in the U.S. It also places an

U.S. National Phase of PCT Application
PCT/FR03/00955 (10/507,369)
Page 3


undue burden on an applicant's representative who must use a PTO deposit account while not having his practice disrupted by erroneous charging of the deposit account¹ to pay for unwanted claims.

Thus, Applicants respectfully request that the Director instruct the Office of PCT Operations to follow the regulations and process the preliminary amendment filed in the initial national stage submission, even though remaining claims contain foreign language text.

Jerome D. Jackson
211 N. Union Street, Suite 100
Alexandria, Virginia 22314

Telephone 703-684-4840
Facsimile 703-995-0318

Respectfully submitted,


Jerome D. Jackson
Reg. No. 33,186

DATED: 27 June 2005

1. Fortunately for the representative in the instant case, at the time the PTO employee decided additional fees were due, there were insufficient funds in the deposit account to satisfy her assessment, and she issued the Notice of Defective Response instead of deducting from the deposit account. Had she deducted from the deposit account at that time, the representative's practice would have been disrupted, and an application handled by the representative could have gone abandoned.

EXHIBIT A

NOTIFICATION OF DEFECTIVE RESPONSE

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Page 1 of 2



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1459
 Alexandria, Virginia 22313-1459
 800 786 9899

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/507,369	Philippe Maubant	161.002

INTERNATIONAL APPLICATION NO.
PCT/FR03/00955

IA. FILING DATE	PRIORITY DATE
03/26/2003	03/27/2002

Jackson Patent Law Office
 Suite 100
 211 N Union Street
 Alexandria, VA 22314

CONFIRMATION NO. 2088
371 FORMALITIES LETTER
OC000000016243206
 OC000000016243206

Date Mailed: 06/13/2005

NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- Indication of Small Entity Status
- Priority Document
- Copy of the International Application filed on 09/21/2004
- English Translation of the IA filed on 05/11/2005
- Copy of the International Search Report filed on 09/21/2004
- Copy of IPE Report filed on 09/21/2004
- Preliminary Amendments filed on 09/21/2004
- Oath or Declaration filed on 09/21/2004
- Request for Immediate Examination filed on 09/21/2004
- U.S. Basic National Fees filed on 09/21/2004
- Assignment filed on 05/11/2005
- Priority Documents filed on 09/21/2004

Applicant's response filed 05/11/2005 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 04/20/2005 have not been completed.

The applicant needs to satisfy supplemental fee problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of \$805 as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$805 for a Small Entity:

Page 2 of 2

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.138(a).

- Total additional claim fee(s) for this application is \$ 805

- \$625 for 25 total claims over 20.
- \$180 for multiple dependent claim surcharge.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice MUST be returned with the response.

CHARITTA A.BURT

Telephone: (703) 308-9140 EXT 207

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/507,369	PCT/FR03/00955	161.002

**EXHIBIT B
PRELIMINARY AMENDMENT
FILED WITH INITIAL NATIONAL PHASE SUBMISSION**

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PATENT

ATTORNEY DOCKET No. 161.002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. National Phase of International Application)
of Philippe MAUBANT, et al)
Filed under 35 U.S.C. 371: Herewith)
International Filing Date: 26 March 2003)
International Application No.: PCT/FR03/00955)
For: STRAIN-MEASURING DEVICE)

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

PRELIMINARY AMENDMENT

Before calculating the fees for this Application, please amend the Application as follows:

IN THE CLAIMS:

Please cancel claims 6-24 without prejudice or disclaimer. After the entry of the instant amendment, the pending claims 1-5 and 25-33 will be:

1. (original) Dispositif de mesure extensométrique (10-16) comportant au moins un élément déformable (20-24) placé entre au moins deux plots de montage (30,40) définissant une surface de fixation pour tre fixés sur une structure (1) à mesurer, des moyens de mise en précontrainte (80) dudit élément déformable (20-24), des moyens de mesure (60) de la contrainte subie par ledit élément déformable (20-24) et des moyens de traitement (70) des signaux de mesure, caractérisé en ce que les moyens de mise en précontrainte (80) s'étendent entre au moins les deux plots de montage (30,40) et sont agencés pour rapprocher ces deux plots de montage (30,40) en translation et imposer une courbure de précontrainte précise audit élément déformable (20-24), ces moyens de mise en précontrainte (80) étant également agencés pour autoriser un déplacement relatif en translation de ces deux plots de montage (30,40) lorsque ledit élément déformable (20-24) est précontraint.
2. (original) Dispositif selon la revendication 1, caractérisé en ce que les moyens de mise en précontrainte (80) sont montés libres au moins en translation dans un des plots de montage (30) et sont liés au moins en translation à l'autre plot de montage (40).
3. (original) Dispositif selon la revendication 2, caractérisé en ce que les moyens de mise en précontrainte (80) comportent au moins une tige de précontrainte (81), dont au moins la partie (83) liée en translation audit plot de montage (40) est filetée et coopère avec au moins un écrou (84) pour déplacer ledit plot de montage (40) et au moins un organe de compensation (85) agencé pour exercer une force de rappel entre ladite tige de précontrainte (81) et un des plots de montage (30).
4. (original) Dispositif selon la revendication 1, caractérisé en ce que les moyens de mise en précontrainte (80) sont liés au moins en translation aux deux plots de montage (30, 40).

5. (original) Dispositif selon la revendication 4, caractérisé en ce que les moyens de mise en précontrainte (80) comportent au moins une tige de précontrainte, dont au moins les parties liées en translation auxdits plots de montages (30,40) sont filetées en sens inverse, au moins deux écrous agencés pour recevoir lesdites parties filetées de la tige de précontrainte et au moins un organe de compensation agencé pour exercer une force de rappel entre lesdits plots de montage (30,40).

Claims 6-24. (cancelled).

25. (original) Dispositif selon la revendication 1, caractérisé en ce que ledit élément déformable (20-23) est monté par au moins une de ses extrémités dans un des plots de montage (30,40) par au moins une technique choisie dans le groupe comprenant au moins l'encastrement, l'emboîtement, le vissage, le rivetage, le collage, la soudure.

26. (original) Dispositif selon la revendication 25, caractérisé en ce que ledit plot de montage (30,40) comporte une zone de montage (31, 41) destinée à recevoir une extrémité de l'élément déformable (20-23), cette zone de montage étant inclinée par rapport à la surface de fixation dudit plot de montage (30,40) de manière à donner audit élément déformable (20-23) une courbure initiale en direction de sa courbure de précontrainte.

27. (original) Dispositif selon la revendication 1, caractérisé en ce que lesdits plots de montage (30,40) sont destinés à tre fixés sur ladite structure (1) à mesurer par au moins une technique choisie dans le groupe comprenant au moins le vissage, le rivetage, le collage, la soudure.

28. (original) Dispositif selon la revendication 1, caractérisé en ce que les moyens de mesure (60) de la contrainte subie par ledit élément déformable (20-24) sont choisis dans le groupe comprenant au moins les jauges de contrainte résistives (61,62), les capteurs piézo-électriques, les capteurs de proximité sans contact, les capteurs de vibration.

29. (original) Dispositif selon la revendication 28, caractérisé en ce que lesdites jauges de contrainte (61,62) sont au nombre de quatre et montées en pont de Wheatstone.

30. (original) Dispositif selon la revendication 1, caractérisé en ce qu'il comporte un boîtier de protection (90) couvrant au moins partiellement lesdits plots de montage (30,40) et le ou lesdits éléments déformables (20-24).

31. (original) Dispositif selon la revendication 27, caractérisé en ce que ledit boîtier de protection est étanche.

32. (original) Dispositif selon la revendication 27, caractérisé en ce que les moyens de traitement (70) des signaux comportent au moins un circuit électronique de conditionnement, ce circuit étant intégré ou rapporté audit boîtier (90), ou déporté et relié audit boîtier par des moyens de communication.

33. (original) Dispositif selon la revendication 1, caractérisé en ce que lesdits moyens de traitement (70) des signaux sont agencés pour mesurer la température interne dudit dispositif et corriger les valeurs desdits signaux en fonction de cette température.


REMARKS

Applicant respectfully requests that the forgoing amendment be entered before the calculation of the filing fee.

If there are any other fees required for entry of this amendment, or for any other reason, please charge such fees to the undersigned Attorney's Deposit Account No. 10-0077.

If the Examiner has any questions about this amendment, applicants' representative would appreciate discussing this amendment with the Examiner. Applicant's representative, Jerome Jackson, can be reached at 703-684-4840.

Respectfully submitted,


Jerome D. Jackson
Reg. No. 33,186

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DATED: 20 Sept 04